

§ 67.143

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(16 U.S.C. 1802)] within the Exclusive Economic Zone after its fishery endorsement has been denied or revoked;

(4) When a vessel is employed in a trade without an appropriate trade endorsement;

(5) When a documented vessel with only a recreational endorsement operates as a fishing vessel; or

(6) When a vessel with a fishery endorsement is commanded by a person who is not a citizen of the United States.

(c) In addition to penalties under paragraphs (a) and (b) of this section, the owner of a vessel with a fishery endorsement is liable to the United States Government for a civil penalty of up to \$100,000 for each day in which the vessel has engaged in fishing within the Exclusive Economic Zone, if the owner of the fishing vessel, or the representative or agent of the owner, knowingly falsifies applicable information or knowingly conceals a material fact during the application process for or application process to renew a fishery endorsement of the vessel.

[USCG–1999–6095, 65 FR 76576, Dec. 7, 2000]

§ 67.143 Restriction on withdrawal of application.

A vessel owner making application pursuant to § 67.141 may not withdraw that application without mortgagee consent if a mortgage has been filed against the vessel. Consent of the mortgagee is evidenced by filing a properly completed original Application, Consent, and Approval for Withdrawal of Application for Documentation or Exchange of Certificate of Documentation (form CG–4593).

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993]

§ 67.145 Restrictions on exchange; requirement and procedure for mortgagee consent.

(a) A Certificate of Documentation issued to a vessel which is the subject of an outstanding mortgage recorded pursuant to subpart Q of this part or predecessor regulations, may not be exchanged for a cause arising under §§ 67.167(b) (1) through (5) or 67.167(c) (1) through (8) without the consent of the mortgagee, except as provided in paragraph (b) of this section.

(b) The provisions of paragraph (a) of this section do not apply to a vessel which is subject only to a mortgage filed or recorded before January 1, 1989, which had not attained preferred status as of that date.

(c) When the owner of a vessel applies for a Certificate of Documentation and the consent of the mortgagee is required under paragraph (a) of this section, the applicant must submit a properly completed original Application, Consent, and Approval for Withdrawal of Application for Documentation or Exchange of Certificate of Documentation (form CG–4593) signed by or on behalf of the mortgagee to the National Vessel Documentation Center.

[CGD 89–007, CGD 89–007a, 58 FR 60266, Nov. 15, 1993, as amended by CGD 94–008, 59 FR 49847, Sept. 30, 1994; CGD 95–014, 60 FR 31604, June 15, 1995]

§ 67.147 Application procedure: Coastwise endorsement for a vessel under a demise charter.

(a) In addition to the items under § 67.141, the person that owns the vessel (other than a barge under § 67.179) and that seeks a coastwise endorsement under § 67.20 must submit the following to the National Vessel Documentation Center:

(1) A certification in the form of an affidavit and, if requested by the Director, National Vessel Documentation Center, supporting documentation establishing the following facts with respect to the transaction from an individual who is authorized to provide certification on behalf of the person that owns the vessel and who is an officer in a corporation, a partner in a partnership, a member of the board of managers in a limited liability company, or their equivalent. The certificate must certify the following:

(i) That the person that owns the vessel, the parent of that person, or a subsidiary of a parent of that person is primarily engaged in leasing or other financing transactions.

(ii) That the person that owns the vessel is organized under the laws of the United States or a State.

(iii) That none of the following is primarily engaged in the direct operation or management of vessels:

(A) The person that owns the vessel.

(B) The parent of the person that owns the vessel.

(C) The group of which the person that owns the vessel is a member.

(iv) That ownership of the vessel is primarily a financial investment without the ability and intent to directly or indirectly control the vessel's operations by a person not primarily engaged in the direct operation or management of vessels.

(v) That the majority of the aggregate revenues of each of the following is not derived from the operation or management of vessels:

(A) The person that owns the vessel.

(B) The parent of the person that owns the vessel.

(C) The group of which the person that owns the vessel is a member.

(vi) That none of the following is primarily engaged in the operation or management of commercial, foreign-flag vessels used for the carriage of cargo for parties unrelated to the vessel's owner or charterer:

(A) The person that owns the vessel.

(B) The parent of the person that owns the vessel.

(C) The group of which the person that owns the vessel is a member.

(vii) That the person that owns the vessel has transferred to a qualified United States citizen under 46 U.S.C. app. 802 full possession, control, and command of the U.S.-built vessel through a demise charter in which the demise charterer is considered the owner *pro hac vice* during the term of the charter.

(viii) That the vessel is financed with lease financing.

(2) A copy of the charter, which must provide that the charterer is deemed to be the owner *pro hac vice* for the term of the charter.

(b) The charterer must submit the following to the National Vessel Documentation Center:

(1) A certificate certifying that the charterer is a citizen of the United States for the purpose of engaging in the coastwise trade under 46 U.S.C. app. 802.

(2) Detailed citizenship information in the format of form CG-1258, Application for Documentation, section G, citizenship. The citizenship information may be attached to the form CG-

1258 that is submitted under § 67.141 and must be signed by, or on behalf of, the charterer.

(c) Whenever a charter under paragraph (a) of this section is amended, the vessel owner must file a copy of the amendment with the Director, National Vessel Documentation Center, within 10 days after the effective date of the amendment.

(d) Whenever the charterer of a vessel under paragraph (a) of this section enters into a sub-charter with another person for the use of the vessel—

(1) The charterer must file a copy of the sub-charter and amendments to the sub-charter with the Director, National Vessel Documentation Center, within 10 days after the effective date of the sub-charter if requested to do so by the Director; and

(2) If the sub-charter is a demise charter, the sub-charterer must provide detailed citizenship information in the format of form CG-1258, Application for Documentation, section G, citizenship.

(e) A person that submits a false certification under this section is subject to penalty under 46 U.S.C. 12122 and 18 U.S.C. 1001.

[USCG-2001-8825, 69 FR 5401, Feb. 4, 2004]

§ 67.149 Exchange of Certificate of Documentation; vessel at sea.

(a) When exchange of a Certificate of Documentation issued to a vessel is required pursuant to subpart L of this part and the vessel is at sea, the owner may affect the exchange while the vessel is still at sea by:

(1) Complying with the requirements of § 67.141; and

(2) complying with the requirements of § 67.145, if applicable.

NOTE: A Certificate of Documentation is issued upon compliance with the applicable requirements, however, the requirement to mark the vessel with its new name or hailing port in accordance with subpart I of this part, if applicable, is waived until the vessel reaches its first port of call, wherever that may be.

(b) The documentation officer prepares a new Certificate of Documentation and forwards it for delivery to the vessel's next port of call. If the port of call is in the United States, the Certificate is forwarded to the nearest U.S.